



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,698	08/01/2001	Jorgen Fenger	FENGER 1	1813

1444 7590 06/17/2003

BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
SUITE 300
WASHINGTON, DC 20001-5303

[REDACTED] EXAMINER
TRAN, KHOA H

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER
3634

DATE MAILED: 06/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/830,698	JORGEN FENGER	
	Examiner Khoa Tran	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 April 0403 and 20 May 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 23-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 23, 25-43, and 46-52 is/are rejected.
- 7) Claim(s) 24,44 and 45 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on 4/01/03 is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____ .
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

Drawings

The proposed drawings correction and/or the proposed substitute sheets of drawings, filed on April 04, 2003 have not been approved because the rubber-elastic portions are not shown in proper cross-hatching. See MPEP chapter 6, page 600-95 and 96 for the cross-hatching of plastic or synthetic resin. Correction is required.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "a stop" on an underside of the retaining means, in claim 23, "the support means are adjustable lengthwise" in claim 44, and "longitudinal weakenings to permit a shortening of said rubber blank" in claim 45 must be shown or the features canceled from the claims. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action.

Specification

The specification is objected to because there is no disclosure of what is being claimed. In particular, there is no disclosure of the carrying means is 5-15mm in claim 27. Note that line 8 of page 5, the specification discloses the carrying device preferably about 10 and 5mm, there is no support for the length to have a range of 5-15mm. Further, the specification fails to disclose "the support means are adjustable lengthwise" see claim 44, and "weakenings to permit a shortening of said rubber blank" see claim 45. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 26, 29, 31, 32, 35, 39, 41, 49, 51 and 52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. with respect to claim 23, line 9, it is unclear to which on of the “said carrying means” is referring to since there are two carrying means, upper and lower carrying means. Further, line 12 of claim 23, there is no antecedent basis for “the supporting surface”. Claim 26, there is no antecedent for “the width”. Claims 29 and 31, there is no antecedent for “the distance”. Claim 32 is doubly reciting the same element that has been set forth in claim 23. Specifically, it appears that “a shelf” of claim 32, is the same structure as the “carrying means” of claim 23. Claim 35, there is no antecedent for “the plane”. Claims 39 and 41, there is no antecedent for “the holders”. Claim 49, there is no antecedent for “the interlocking arrangement”. Claim 51, there is no antecedent basis for “the supporting structure”. Claim 52 fails to further limiting claim 23 because flat, box-shaped items are set forth in claim 23 as items to be used with the carrying device and they are not part of the claim limitation.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 23, 25-32, 37, 42, 43, 46-48 and 50-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Althoff et al. in view of Brazier et al. Althoff et al. disclose a carrying device for retaining flat box shaped items that meets all limitations of the claims except for a rubber-elastic insert placed in the retaining groove and the saw-tooth projections on the supporting shelf. Althoff et al. disclose a carrying device comprising an upper retaining means of an elongated groove (6A) retains the upper portion of a box like item; a lower carrying means of a supporting shelf extending from a vertical front wall (5) having a stop member (6); a supporting means (8) for supporting against a wall on which the device is suspended; a suspension means (8) with a catch recess extending below the supporting shelf for attaching with another same kind of a device, see Figures 2 and 3. Brazier et al. teach a rubber-elastic insert (12) having a stop (20) placed in the retaining groove and a lip facing towards and adapted to engage with an item (2), see Figure 2. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the groove of Althoff et al. with the provision of an insert as taught by Brazier et al. in order to frictionally secure items with the shelf below. With respect to claims 26-31, it would have been an obvious matter of engineering design choice as determined through routine experimentation and optimization for one of ordinary skill in the art to routinely dimension the width of the shelf to be less than 20 mm and to routinely dimension the insert to have a distance lip

less than 10 mm for a particular application thus producing no new and unexpected results.

Claims 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Althoff et al. in view of Brazier et al. as applied to claims 23, 25-32, 37, 42, 43, 46-48 and 50-52 above, and further in view of A. O. Albright. Albright teaches the extending shelf having projections saw-tooth like shaped and suspension means (6) for attaching to a vertical surface. See Figure 3. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the support shelf of Althoff et al. with the provision of projections saw-tooth like shaped and suspension means as taught by Albright in order to have a non-skid shelf surface and enables to attach the carrying device to a vertical surface. With respect to claims 35 and 36, it would have been an obvious matter of engineering design choice as determined through routine experimentation and optimization for one of ordinary skill in the art to routinely dimension the peak of the projection be between 0.2-1 mm for a particular application thus producing no new and unexpected results.

Claims 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Althoff et al. in view of Brazier et al. as applied to claims 23, 25-32, 37, 42, 43, 46-48 and 50-52 above, and further in view of Krinke et al. Krinke et al. teach the supporting shelf having a sign holder (34). See Figure 5. It would have been obvious to one of ordinary skill in the art to provide the supporting shelf of Althoff et al. with the provision of a display sign holder as taught by Krinke et al. in order to identify the items that are storing on the shelf.

Allowable Subject Matter

Claims 24, 44, 45, and 49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

Claim 24 is allowed because there is no prior art that teaches or suggests an insert having a "lip point in a direction toward the stop of the retaining means".

Claim 44 is allowed because there is no prior art that teaches or suggests "the support means are adjustable lengthwise"

Claim 45 is allowed because there is no prior art that teaches or suggests "longitudinal weakenings to permit a shortening of said rubber blank"

Claim 49 is allowed because there is no prior art that teaches or suggests "a stiff wire is inserted and thus locking the suspension means and the catching means together.

Response to Amendment

Applicant's arguments with respect to claims 23, 25-43, 46-48, and 50-52 have been considered but are moot in view of the new grounds of rejection.

The new grounds of rejection were necessitated by applicant's amendment, e.g., "the rubber-elastic portion and elongated in the crosswise direction " see claim 23, lines 15-16.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 8:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group is (703) 305-3597 or (703) 305-3598.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

If the applicant is submitted by facsimile transmission, applicant is hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office

Fax No. _____ On _____
(Date)

Type or printed name of person signing this certificate:

(Signature)

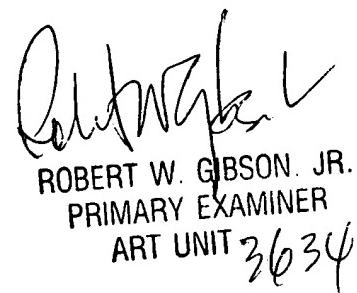
Furthermore, please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile

Application/Control Number: 09/830,698
Art Unit: 3634

Page 9

will only cause further unnecessary delays in the processing of your application;
duplicate responses where fees are charged to a deposit account may result in those
fees being charged twice.

Khoa Tran
June 16, 2003



ROBERT W. GIBSON, JR.
PRIMARY EXAMINER
ART UNIT 3634